

## COVINGTON

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**By ECF and Facsimile ((718) 613-2546)**

November 6, 2018

Honorable Nicholas G. Garaufis  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

**Re: *Amadei, et al., v. Nielsen, et al.* (No. 17 Civ. 5967)**

Dear Judge Garaufis:

We represent the Plaintiffs in the above-referenced matter and write regarding Defendants' appeal of Magistrate Judge Scanlon's Order of October 25. *See* ECF No. 70.

As a threshold matter, Defendants' 20-page memorandum of law in support of the appeal fails to comply with the page limit set forth in the Court's rules. *See* J. Garaufis Indiv. R. III.A.1. (Local Rule 37.3 governs discovery motions); Local R. 37.3 (setting three-page limit for motions involving discovery or non-dispositive pretrial disputes). Defendants failed to seek leave to exceed that page limit, and their appeal of Magistrate Judge Scanlon's order is defective for that reason alone.

To the extent that this Court considers the appeal, Plaintiffs respectfully request that the Court extend their deadline to respond to November 21. Defendants have indicated that they will consent to an extension only if Plaintiffs agree to stay discovery during the pendency of their motion; Plaintiffs do not agree to that condition.

Defendants did not notify Plaintiffs of the appeal in advance of filing, and Plaintiffs have had little notice of the appeal deadline. In particular, Defendants did not file their appeal until yesterday, November 5. The Court entered a minute order today directing Plaintiffs to respond by Friday, November 9—four days following the appeal (and for Defendants to submit any reply not later than November 13).

Plaintiffs require additional time to respond. It bears emphasis that although Local Rule 37.3 provides a four-day response period for discovery motions, that rule contemplates a three-page moving brief and three-page response—not the 20-page brief that Defendants have filed here. In addition, Defendants' brief makes representations regarding the applicable legal standards, discovery process, and factual record with which Plaintiffs disagree and to which they must respond.

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Plaintiffs therefore request that, to the extent the Court wishes to consider Defendants' appeal, that Plaintiffs' time to respond be extended to Wednesday, November 21 and that Defendants file any reply not later than Wednesday, November 28. This extension request is Plaintiffs' first and does not affect any other scheduled dates.

Respectfully submitted,  
s/ Joshua B. Picker  
Joshua B. Picker

cc: Hon. Vera M. Scanlon (by ECF)  
All counsel (by ECF and Facsimile ((718) 254-6082)